



Department of Justice

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DEPARTMENT OF JUSTICE ISSUES BUSINESS REVIEW LETTER

WASHINGTON, D.C. -- The Department of Justice announced today it does not intend to challenge under the antitrust laws the formation of the Nickel Users Purchasing Association Inc. (NUPA), organized to negotiate and purchase primary nickel and to arrange for resale, warehousing, storing, insuring and shipping of primary nickel for its members.

NUPA's membership will be open to U.S. purchasers of primary nickel, a material that is used in manufacturing processes, melted or processed into alloys, or used in making steel. Customers of primary metal products include the resistance heating, automotive specialty, aerospace, nuclear and stainless steel industries.

The Department stated its position in a letter from John W. Clark, Acting Assistant Attorney General in charge of the Antitrust Division, to Suzanne E. Harley, counsel for NUPA.

Clark said the proposal does not appear likely to reduce competition in the market for the purchase of primary nickel since annual United States consumption represents approximately 15 percent of what is a world market. Moreover, the proposal is

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likely to be procompetitive because it could create efficiencies that would result in lower prices both for nickel and nickel-based products manufactured by members.

Clark also said that while there was some risk that the venture could facilitate coordinated behavior, that risk was not substantial given the safeguards adopted.

These safeguards involve the use of an independent administrator who will negotiate with nickel producers and maintain the confidentiality of the negotiations. NUPA also has adopted procedures to ensure there is no exchange of competitively sensitive information through meetings or otherwise.

Under the Department's business review procedure, an organization may submit a proposed course of action to the Antitrust Division and receive a statement as to whether the Division will challenge the activity under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Room 3233, Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file.

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